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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 17th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 16 August 1996, at 3 p.m.

Chairman: Mr. EIDE

later: Mr. LINDGREN ALVES

later: Mr. EIDE

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The meeting was called to order at 3.15 p.m.

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3) (continued)

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED (agenda item 4) (continued) (E/CN.4/Sub.2/1996/3, 4, 6 and 7; E/CN.4/1996/44)

1. Mr. WEISSBRODT, speaking first on agenda item 4, said he had already submitted some written remarks concerning her final report (E/CN.4/Sub.2/1996/6) to Mrs. Warzazi, Special Rapporteur on traditional practices affecting the health of women and children. One of the procedural conclusions he had drawn was that, in her continued monitoring of the topic, the Special Rapporteur might usefully refer to the work of the Committee on the Rights of the Child; for, in his view, issues such as female genital mutilation could be more easily tackled as a violation of the rights of the child. He also considered that the process of continued monitoring needed to be clearly distinguished from Mrs. Warzazi's pioneering study: the Commission might not be receptive to the idea of following up the final report with a continuation of that study, which had taken 10 years to prepare. A better approach might be for the Special Rapporteur to report again two years hence on new developments in the field of traditional practices, and thereafter biennially.

2. Turning to agenda item 3, he congratulated his colleagues on the quality of the discussions concerning the role of the Sub-Commission in reviewing country situations under agenda item 6. He wished to highlight the three main avenues the Sub-Commission should pursue in that regard. First, while its efforts in monitoring country situations were significant, many of its country resolutions under Economic and Social Council resolution 1235 (XLII) duplicated Commission and General Assembly actions, thereby squandering limited resources and politicizing its role. Perhaps the best way in which it could contribute to country reviews under Council resolution 1235 (XLII) and Commission resolution 8 (XXIII) of 16 March 1967 would be for it to focus on new situations and those that had received insufficient attention from other United Nations bodies. It would perhaps be impractical, given that a number of proposals for country resolutions were already pending, to eliminate all such duplication at the current session. However, in fulfilment of the minimum requirements of Commission resolution 1996/25, the Sub-Commission should now declare its commitment to act at future sessions only in regard to those countries on which the Commission had not adopted a resolution at its immediately previous session - unless of course there had been major new developments since that session requiring action by the Sub-Commission.

3. Secondly, the Sub-Commission should begin to explore another way of approaching its work under agenda item 6. Commission resolution 8 (XXIII) authorized it to discuss country situations and to report thereon to the Commission. But what form should such a report take? The resources required to produce a global report along the lines of those prepared annually by Amnesty International and the United States Department of State would be so prodigious as to require it to abandon many other useful functions. Mr. Lindgren Alves had offered some interesting ideas on ways of working towards a global report in the long term. One such way would be to draw up

a table of the sort suggested by Mr. Bossuyt, providing an overview of the 14 thematic reports of the Commission (the original purpose of which had been to avoid politicization of country resolutions). Such a table would reveal whether there were imbalances in those reports and gaps in their coverage, and would identify those countries in which significant problems arose in connection with a large number of thematic procedures. Those countries could then be made the subject of closer attention from both the Commission and the Sub-Commission. The task of preparing the table could be entrusted either to just two members, or to a working group: the latter alternative would be more costly, but would provide better regional balance.

4. Thirdly, the idea of a thematic table would not, pace Mr. Alfonso Martínez and Mr. Fan Guoxiang, make the Sub-Commission an appendage of or hostage to the Commission. It would still be able to adopt resolutions on emergency situations and could gradually develop the thematic table into a global report. It should not now hesitate to take that initial step, before deciding what further steps were needed.

5. Lastly, the Chairman might wish to consider the possibility of selecting a group of members of different persuasions as "Friends of the Chair", with a view to developing a proposal that would meet with the broad approval of the Sub-Commission as a whole.

6. Mr. ALI KHAN, speaking first on agenda item 4, noted from paragraph 62 of the annotations to the provisional agenda (E/CN.4/Sub.2/1996/1/Add.1) that the study by Mr. Chernichenko on recognition of gross and large-scale violations of human rights perpetrated on the orders of Governments or sanctioned by them as an international crime had been shelved on the grounds that other bodies such as the International Law Commission were seized of the matter. In his view, the subject was a very important one that could make a valuable contribution to the promotion of human rights. Like others, he was aware of the work done by the International Law Commission on the question in pursuance of its mandate of codification and progressive development of international law, and of its work in drafting a statute of an international criminal court to serve as an additional forum in which to deal with international crimes. There was an urgent need to establish such a forum to impose sanctions on recalcitrant or delinquent States, and Mr. Chernichenko's study should therefore be continued. Indeed, if the rules so allowed, Mr. Chernichenko should be enabled to participate in the work of the other bodies seized of the matter, in the capacity of an expert or witness. There was no justification for putting his study into cold storage.

7. His next remarks touched on agenda items 3, 4 and 6. On the question of an annual global report, he believed that it might be possible to adopt the proposals made by Mr. Bossuyt if, in their capacity as independent experts, members were able to draw a clear distinction between the political aspects of human rights and human rights per se in their consideration of situations. Unfortunately, that might not prove possible in practice. He therefore wondered to what extent a global annual report would serve to arraign States. Mr. Bossuyt's idea should not be shelved indefinitely. Mr. Weissbrodt had made a valiant effort to keep it alive; and the Sub-Commission should now explore it further so as to give it shape and form in the future.

8. He had listened with rapt attention to Mr. Bengoa's attempt to analyse human rights from two angles, covering both globalization of human rights and the political aspects of the situation. He was a little disappointed that Mr. Bengoa had not driven the point home by pursuing that approach to its logical conclusion; for the result would have been a more forthright and practical suggestion. As for the question of a thematic table, he would have whole-heartedly endorsed Mr. Weissbrodt's suggestion, had it not been linked to the further proposal that that table should subsequently evolve into a global annual report. Nevertheless, the idea of some sort of chart synthesizing the data contained in the various thematic reports was one he could support.

9. Turning to agenda item 3, he said he doubted whether Mr. Hatano's proposals concerning a codification of the Sub-Commission's rules of procedure and guidelines were feasible; for it clearly emerged from his perusal of the rules of procedure of the Functional Commissions of the Economic and Social Council that the Sub-Commission was subject to the rules of procedure promulgated by the Economic and Social Council, and that, *mutatis mutandis*, those rules applied to the functioning of the Sub-Commission. Rule 77 stated that "only the Council may amend these rules". Unlike the Security Council, for instance, the Sub-Commission was not the master of its own procedures; and he had no doubt that should any conflict arise between Mr. Hatano's proposals and the rules of the Economic and Social Council, the latter would prevail. He himself favoured flexibility, reasonableness and fairness in procedural matters, with recourse to guidelines and precedent rather than a codified system of procedure. None the less, Mr. Hatano had made many excellent proposals that were worthy of consideration.

10. Mr. EL-HAJJÉ said he recognized that it was neither easy nor desirable to accuse a specific State in a draft resolution, and that the Sub-Commission did so only when it had exhausted all the other procedures available to it. A draft resolution on a country should be adopted only as a last resort. In that spirit, he agreed with those members who doubted the wisdom or feasibility of drawing up a catalogue of States in which violations were alleged to have taken place, in the absence of a decision by the Sub-Commission, the Commission or other bodies. Would it be wise for members to abandon their role as independent experts and to trigger a confrontation between States and non-governmental organizations (NGOs)? The two main qualities that members should exhibit were discretion and independence, and those qualities were incompatible with the publication of a document. Where a special rapporteur was reporting on a country, the Sub-Commission could of course refrain from adopting a resolution, in the interests of avoiding duplication, with the proviso that a further resolution could be adopted if there was a change in the situation. Item 6 was a core component of the Sub-Commission's work, and the question was, how to make its procedures more efficient and effective. He thus supported the proposal that a small group, consisting of one member from each geographical region, should meet briefly to pool all the ideas put forward and come up with a proposal on the basis of which a decision could be taken.

11. Mr. HATANO, speaking on agenda item 3, said that although he could not answer every question and criticism, he felt he should clarify his position with respect to the mandate of the NGOs. In provisional guideline A,

paragraph 3, he had proposed that NGOs should not "request the Sub-Commission to take action" for two reasons. Firstly, it could be assumed that when NGOs supplied information it was in the hope that the Sub-Commission would take certain action, so there was no need for them to explicitly request the Sub-Commission to take action. Secondly, NGOs had no mandate to "request" the Sub-Commission to take action, sometimes because the Sub-Commission was not in a position to comply with requests, and sometimes because they would be interfering in matters which were for the Sub-Commission to decide, such as the appointment of special rapporteurs. His paper had been amended so that it only suggested certain procedural provisions with respect to NGOs and government observers; the final draft would be drawn up in consultation with all parties.

12. Mr. ALFONSO MARTÍNEZ, speaking on agenda item 3, said it was important to remember that the draft resolution referred to earlier by Mr. Weissbrodt (E/CN.4/Sub.2/1996/L.5) was based on information made available as a result of the special procedures; unfortunately, the original objectives of those procedures had been watered down, leaving many countries with a deep-seated sense of unease over the results of the work of the Sub-Commission. He defended the special procedures because they helped to avoid the over-politicization of the already highly politicized area of human rights.

13. The thematic reports were generally based on information from the few NGOs with the resources to maintain world-wide networks, none of which, of course, were based in the third world. Those organizations did not request the Sub-Commission's permission to carry out their investigations; the only countries to take initiatives under the special procedures, though not the only countries where they were applicable, were African countries. That was why he was opposed to basing a new approach under agenda item 6 on the annual results of special procedures groups.

14. Turning to the details of the draft resolution, he questioned the usefulness of the purely arithmetical tabular report proposed in operative paragraph 2. He also felt that three of the six factors listed in operative paragraph 3 required the special rapporteurs to make value judgements, namely, on the extent to which a country was of concern in thematic reports, on a Government's willingness to cooperate and on any change in the severity of the human rights situation in a country. The work involved in addressing those points would be tremendous and the responsibility of making the judgments would be far beyond the mandate of the experts.

15. He also questioned whether the work could be done in only two weeks; three or four weeks seemed more reasonable to him. It was unacceptable to ask two experts to do the work of five in a reduced period of time; if the task was not going to be done properly, it should not be done at all. He also disagreed with the idea of the Chairman appointing the two rapporteurs, when so many divergent viewpoints had been expressed. Finally, he warned that to rush such an important debate would create more problems than it solved.

16. Mr. KUEHL (Observer for the United States of America), speaking on agenda item 3, wished to impress upon members his delegation's sense of urgency regarding reform of the Sub-Commission, and to emphasize the main point made by the Commission in its debate, namely, that Governments wanted the Sub-Commission to review its work and its mandate.

17. His delegation believed it was appropriate for the Sub-Commission to review and consider better ways of fulfilling its mandate; he urged the Sub-Commission to address all the concerns of the Commission, as stated in its resolution 1996/25, and not just concentrate on agenda item 6. His delegation strongly recommended that the Sub-Commission should spend more time on the matter, both in private and, if necessary, at the expense of more routine business. Further, not only thematic reports, but also country reports should be taken into consideration by the Sub-Commission.

18. M.s. WARZAZI, speaking on agenda item 3, said the Sub-Commission should not rush into decisions; general agreement was needed on three points, namely, streamlining, effectiveness and the preservation of the independence and identity of members of the Sub-Commission. They were not new ideas, but they required an evolution rather than a revolution in thinking. She personally was open to any suggestions which would improve relations between the Sub-Commission, NGOs and government observers, and which would avoid duplication. She agreed with Mr. Joinet that the Sub-Commission was not able to take effective action in cases of emergency, as even a resolution by the Sub-Commission could take eight months to reach the Commission. She therefore wondered if it would be possible to bypass the Commission and send Sub-Commission resolutions directly to the General Assembly. Finally, she expressed her agreement with Mr. Joinet on the questions of streamlining, saving time and secret ballots.

19. Mr. TEITELBAUM (American Association of Jurists), speaking on agenda item 3, referred to a document his organization had sent to the Commission on Human Rights in March 1996 (E/CN.4/1996/NGO/5), urging that the Sub-Commission should avoid carrying out studies which had already been carried out in the Commission or other relevant bodies, or which could be requested from the secretariat. For example, the World Health Organization had been working on the question of traditional practices since 1958, and a working group of the Commission had produced a report on it in 1986. The Sub-Commission should also avoid needlessly prolonging studies it had undertaken.

20. His organization urged the Sub-Commission to present an annual report to the Commission, as requested by it in resolution 1967/8, a full 29 years earlier. The agenda should include, on a permanent basis, freedom of expression, representative democracy and popular participation, fundamental rights which were currently in crisis throughout the world. He agreed with Mr. Lindgren Alves that more time should be devoted to economic, social and cultural rights, and a fairer balance needed to be struck in allocating the two categories of rights.

21. His organization believed that excessive recourse to confidentiality and secret ballots damaged the Sub-Commission's credibility and moral authority, reducing its transparency and increasing its lack of unaccountability. It was argued that secret ballots guaranteed the independence of the members, by shielding them from outside pressure, including that from the Government of their own country. However, the risk facing members who resisted pressure was, at worst, according to members of the Sub-Commission who had spoken out on the matter in the past, the loss of their job; and that could only happen if they were dependent on the support of a Government for their position. A secret ballot would not solve that problem, as it would be illusory to suppose

that Governments were not aware of how the experts voted. The impartiality and objectivity of the Sub-Commission and the independence of its members was, as the Commission had noted in resolution 1982/23, essential, and was to be achieved by avoiding the appointment of government officials to the Sub-Commission. The fear that pressure might lead to a member not being re-elected ignored the fact that to be a member of the Sub-Commission was not in itself a career or just a job, but a great responsibility that was by its nature temporary. Besides, if a member incurred the wrath of his or her own Government, there was nothing to prevent him being put forward for re-election by another country or group of countries if they thought that he should continue to be a member of the Sub-Commission.

22. On the question of members' personal safety, which would supposedly be enhanced by secret balloting, the risk a member ran for speaking out independently was infinitesimal in comparison with the risks run daily by those who risked, and often lost, their liberty and lives in the defence of human rights.

23. His organization did not wish to see members exposed to physical risk or inquisitorial surveillance by Governments, but wished rather to increase the credibility and moral authority of an effective and independent Sub-Commission.

24. Mr. FAN Guoxiang, speaking on agenda item 3, referred to written comments circulated by the observer for the United States of America, and agreed that the Sub-Commission should take into account the enormous complexity of drawing up a comprehensive report, though not necessarily for reasons of the time and resources needed to compile it.

25. The essence of the problem was whether or not there should be a new, automatic, institutionalized linkage between the independent Sub-Commission and other mechanisms. He wondered whether it could really be assumed that the conclusions of other bodies presented in tabular form would be automatically accepted, without a case-by-case discussion and possibly a vote. Special rapporteurs did not necessarily reach the same conclusions as the Sub-Commission; therefore the key issue was whether or not to maintain the independence of both the Sub-Commission and the experts.

26. Mr. GUISSÉ speaking on agenda item 3, stressed the importance of the studies carried out by the Sub-Commission. They not only supplied information to higher bodies, including the Commission, but also, when carefully argued and exhaustive, offered a testing ground for new ideas. The studies allowed input from all individuals and organizations working in the field of human rights to be considered, and, in return, were widely circulated by the same individuals and organizations, especially NGOs.

27. On the question of the independence of members and secret ballots, he pointed to the jury system, where total anonymity was observed in order to protect jurors and to give a clear verdict. Secret balloting gave credibility to decisions, ensuring that each member could consult his or her own conscience and avoid suspicions and insecurity. He therefore believed that secret ballots were the only way to reach objective and reliable decisions.

28. Mr. WEISSBRODT said that he strongly supported Mr. Guissé's arguments in favour of secret voting on issues falling under agenda item 6.

29. Mr. Fan Guoxiang had quoted a passage from the written comments of the observer for the United States of America that had not been read out at the meeting. He took issue with that statement in the passage to the effect that the reports of the rapporteurs and working groups of the Commission and the Sub-Commission were not intended to form part of a global overview. In his view, that was precisely their intention, particularly in the case of thematic reports on such issues as torture or disappearances. A table indicating the thematic reports in which individual States featured could, on an experimental basis, provide an interesting insight into the operation of the thematic procedures.

30. Mr. JOINET said that the representative of the American Association of Jurists had implied that the status of civil servant was incompatible with independence. If that argument was applied to the office of magistrate, it followed that there was no such thing as an independent judiciary. Secondly, even if the personal safety of members of the Sub-Commission was not currently under serious threat, circumstances might change in particular countries or a new member might be elected from a State where persons of equivalent status feared for their lives. At all events, he understood that there was only one NGO opposed to the principle of the secret ballot.

31. Mr. BOSSUYT said that his reference at the previous meeting to the preparation of a table had not implied any support on his part for the idea of compiling a global report on human rights. He had suggested that the table should be based on thematic reports because it would serve no purpose in cases where a country-specific report already existed. Moreover, the information provided in the table would not trigger an automatic mechanism. It would be for the Sub-Commission to decide whether any action was indicated. The whole idea of the table was to address agenda item 6 in a less arbitrary and selective manner.

32. Mr. ALFONSO MARTÍNEZ said he was not sure that the American Association of Jurists was the only NGO to oppose the principle of secret voting. He personally shared its opinion.

33. Mrs. PALLEY said she realized that as a national of a mature democracy she was in a privileged position when it came to choosing between public or private voting. She was very much in favour of privacy, however, because she realized that not everybody was so fortunate. Moreover, her own purely arithmetical research had convinced her that the statements made by experts did not always tally with their voting behaviour.

34. Mr. KUEHL (Observer for the United States of America) said that he had not made the remarks attributed to him by Mr. Fan Guoxiang and those remarks did not reflect his Government's opinion on the ideas that had been discussed at the current and previous meetings.

35. The CHAIRMAN, summing up the debate on agenda item 3, said that some proposals concerning rationalization of the agenda seemed to have secured a consensus. Opinions differed on issues of procedure, including the role of

NGOs and alternates, but there seemed to be agreement on the minor practical matter of providing two ballot boxes. The key issue was, of course, the implementation of Commission on Human Rights resolution 8 (XXIII), on which a wide range of proposals and counter-arguments had been tabled. He suggested that all experts who had ideas or had made recommendations on any of those subjects should submit them in writing. The Sub-Commission could then form an open-ended working group that would seek to overcome existing differences of opinion.

36. Mr. ALFONSO MARTÍNEZ asked whether the submissions were to focus on draft resolution E/CN.4/Sub.2/1996/L.5 and requested further information on the practicalities of the proposed procedure.

37. The CHAIRMAN said that the draft resolution was certainly the main focus of the existing divergence of views. As regards the practicalities, he agreed that further reflection might be necessary and suggested that the matter be deferred until the beginning of the next meeting.

38. Mr. Lindgren Alves took the Chair.

39. Mr. URRUTIA (Observer for Peru), speaking on agenda item 4, said that recent events in Peru should go a long way towards allaying the concern expressed by the Sub-Commission regarding the human rights situation in his country. The President of the Republic had submitted a bill to Congress providing for the establishment of a commission composed of the Minister of Justice, the Defender of the People (Ombudsman) and a highly regarded human rights activist. Its mandate would be to investigate cases of individuals who claimed to have been unjustly convicted or detained for terrorist offences and to request a presidential pardon where appropriate. It could also propose additional legislative measures to improve the unwieldy judicial review procedure. Persons granted a presidential pardon would not be declared innocent but would be released immediately. Such a procedure was considered more humanitarian than the alternative of remaining in prison while the review process unfolded. Moreover, the individuals concerned would retain the option of demanding a judicial review following their release. The commission would begin its proceedings 15 days after promulgation of the proposed act.

40. The Government of Peru had begun paying compensation to the relatives of the victims of certain human rights violations, for example in the La Cantuta case and cases where the responsibility of State officials had been reliably established by the Peruvian judicial authorities.

41. All the judicial institutions established under the 1993 Constitution were again operational. Congress had recently appointed a Defender of the People, thereby responding to one of the specific requests made by the Sub-Commission at its previous session, and had elected the seven magistrates who formed the Constitutional Court.

42. His Government had invited the Working Group on Arbitrary Detention to visit Peru at a date to be determined by the Group. It had also issued an invitation to the Special Rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, who would

visit the country from 9 to 13 September 1996, and the Minister of Justice had recently extended a similar invitation to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

43. Peru's strenuous efforts to guarantee human rights in its territory continued to be thwarted by terrorist activities. Where excesses had been committed in the fight against subversion, the perpetrators were individuals and were in no case pursuing a deliberate and systematic State policy.

44. He assured the Sub-Commission that any further views it expressed would be taken into account by his Government, which was cooperating with international bodies and had already achieved considerable progress in the area of human rights. He therefore urged the Sub-Commission to refrain from adopting a resolution on Peru.

45. Mr. KHALIFA said that the issue of international terrorism had been covered in paragraphs 97 to 109 of the Sub-Commission's report on its forty-seventh session (E/CN.4/1996/2). Was its omission from the annotated agenda of the current session (E/CN.4/Sub.2/1996/1/Add.1) inadvertent or deliberate? As a concomitant of such major evils of modern society as drug trafficking and organized crime and a phenomenon that was frequently motivated by fanaticism and suicidal despair, it was an issue that demanded the Sub-Commission's attention. The alleged blurring of the distinction in some cases between terrorism and guerrilla warfare was no justification for lack of action. The fear generated by terrorism was a deadly threat to the survival of democratic freedoms and a sound civil society. It was essential to explore the reasons for its recent proliferation and insidious corrosion of societies whose mood had turned sour.

46. Major policies were being drawn up to combat terrorism, like the recent decision to punish firms that did business with countries believed or claimed to be harbouring terrorists. Terrorism was a controversial issue, but the Sub-Commission had always taken up controversial issues. If left to flourish, terrorism could prove to be more perilous to mankind than ever thought. Nuclear smuggling was especially dangerous. The Director of the United States Central Intelligence Agency had predicted a tremendous growth of terrorism over the next 10 years. In particular, the defences against chemical or biological attacks by terrorists were inadequate. The Group of 7 plus Russia had recently met in Paris to discuss terrorism, while the Organization of Arab States had met to discuss the rising tide of religious extremism. It was interesting to note that sub-Saharan Africa remained relatively immune, the reason probably being that it had its share of civil wars and other armed disputes. Nevertheless, terrorism could exist side-by-side with those scourges, as in Sri Lanka.

47. In brief, terrorism had made the world a tough neighbourhood and certain countries had had to resort to tough measures and to exceptional legislation that went against established civil rights and guarantees. Such measures, however, were taken reluctantly.

48. The 25 recommendations reached in Paris by the Group of 7 covered many areas but did not get to the roots of the matter. Terrorism was not only a total denial of human rights but also a possible result of such a denial - an aspect of the matter that deserved to be explored.

49. When he had raised the issue of terrorism at the previous session he had wished to draw attention to the fact that the Sub-Commission had given it no attention. A draft declaration had been proposed but then postponed. While he did not support the idea of appointing a special rapporteur on the subject, it would be inexcusable if the Sub-Commission were to avoid debating the issue altogether. It should therefore be retained under agenda item 4.

50. The CHAIRMAN said that no mention was made of terrorism in the agenda because a former member of the Sub-Commission who had been due to prepare a working paper on it had subsequently not been re-elected and the working paper had therefore not been submitted.

51. Mr. Cissé (Secretary of the Sub-Commission) explained the circumstances which had led to the issue of terrorism and human rights not being specifically included in the Sub-Commission's present agenda.

52. Mrs. MBONU, commenting on the final report of the Special Rapporteur on traditional practices affecting the health of women and children (E/CN.4/Sub.2/1996/6), noted that the Special Rapporteur had received almost no replies from Governments directly concerned by the traditional practices covered by the Plan of Action contained in document E/CN.4/Sub.2/1994/10/Add.1, with the exception of Guinea, Niger and the Sudan. Thanks were therefore due to the Governments of those three countries for the information supplied.

53. In Nigeria the Ministry of Women's Affairs and Social Development afforded ample opportunity for the implementation of official policy on the eradication of traditional practices harmful to the health of women and children. At the Federal level, the Ministry, in conjunction with the women's commissions of the individual States, had organized a workshop for the purpose of alerting women to those issues and of dealing with problems of widowhood that infringed women's rights. Nigerian law did not run counter to women's rights, but certain customary practices tended to violate them. Genital mutilation, although not widespread, was a case in point. The Ministry of Women's Affairs and Social Development was therefore organizing another workshop at the grass-roots level to sensitize traditional rulers and, through them, women and to identify customs that were beneficial to women while discarding those that were harmful.

54. The internationalization of the problems considered in the report and other problems of violence against women had reached its peak in 1995 when the Fourth World Conference on Women had taken a stand on the matter, spelling out physical, sexual and psychological violence occurring in the family, including the sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women. The Conference had also called on all Governments to condemn violence against women and to refrain from invoking any custom, tradition or religious consideration to justify it. It was gratifying to learn from the report that some universities were taking an interest in the practices concerned, and she hoped that agreement would be reached on their cultural origins.

55. The request made by the WHO Executive Board for additional extrabudgetary resources to sustain action at the national, regional and global levels deserved to be supported, since the countries where harmful traditional practices occurred were usually very poor. Education also played an important role, since if girls were educated to at least high-school level their perception of the issues involved would be positively affected, with a drastic reduction in the number of early marriages. The work done by UNESCO in that connection should therefore be encouraged.

56. She endorsed the Special Rapporteur's recommendations on the national and international action to be taken, especially the need to include the problem of harmful practices in functional literacy campaigns for women, the need to motivate religious leaders to condemn harmful traditional practices in their preachings, and the need for teaching materials in the campaign against harmful practices for primary and secondary schools to be prepared by individuals expert in both the subject-matter and the appropriate pedagogical and psychological methods, as well as the need for financial support from the United Nations for training personnel responsible for enforcing laws against sex-related discrimination and the need for material and financial assistance for government projects such as the establishment of databases and mobile publicity units.

57. Finally, since it was unlikely that the diehards in favour of female genital mutilation would give up the practice easily, special attention should be given to the education of birth attendants and midwives and to ensuring that they used the right equipment. Moreover, some of the materials submitted to the Sub-Commission by the Special Rapporteur could well be taken up in the preparation of the proposed optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

58. Mr. EL-HAJJÉ, introducing his working paper on the promotion and protection of human rights by the exercise of democracy and the establishment of a democratic society (E/CN.4/Sub.2/1996/7) said that the subject-matter was of a very great interest to modern societies. Human beings had always thought that they were equal before the law and that any discrimination could only be arbitrary, and the idea of equality had been given significance, resources and guarantees in democracy, which had been taken up in numerous articles of the Universal Declaration of Human Rights and the International Covenants on Human Rights. Wisely, however, those instruments contained no specific information on the elements that constituted democracy, since democratic societies were in a constant state of flux and what was considered important at one point in time might be insufficient at another. His research among the classical Greek and Arabic writers on the subject, as well as among modern European, Chinese, Indian and Japanese philosophers, had led him to assume a common patrimony of mankind which placed man at the centre of all living concerns and concentrated all his riches in the simple yet beautiful, vibrant yet explosive concept of democracy, with its associated notions of morality, the public good, solidarity, dialogue and the rejection of violence. His working paper was essentially concerned with the identification of the characteristic features of the democratic society, what obstacles there were to it, and how it could be established. He hoped that it would be possible to appoint a special rapporteur at the Sub-Commission's current session so that a preliminary report giving some specific practical content to the International Bill of Human Rights could be submitted at its next session.

59. Mr. YOKOTA said that, as a former Special Rapporteur on the situation of human rights in Myanmar, he was convinced that the restoration of democracy was essential for the full enjoyment of human rights in Myanmar and earnestly hoped that the State Law and Order Restoration Council would finally keep its promise and transfer power to a democratically elected civilian government as soon as possible.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued)

Statement by the Chairman on the situation of human rights in Cyprus
(continued)

60. The CHAIRMAN drew the Sub-Commission's attention to the following revised draft statement by the Chairman, which he invited it to adopt by consensus:

"1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities deplores the violent clashes that took place in Cyprus during a demonstration on the 11th and a peaceful demonstration on the 14th of August 1996.

2. The Sub-Commission regrets very much the death of two unarmed Greek-Cypriot young men and the injury of many other persons, including United Nations peace-keepers, as a result of the Turkish forces allowing Turkish armed Cypriot civilians to pass through the United Nations buffer zone where they clashed with the demonstrators.

3. The Sub-Commission regrets the non-implementation of its resolutions on Cyprus relating to the return of refugees and displaced persons to their homes in safety and the full restoration of human rights."

61. The revised draft statement by the Chairman was adopted by consensus.

The meeting rose at 6 p.m.